

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12**

WESTGATE VACATION VILLAS OWNERS
ASSOCIATION, INC.¹

Employer

and

Case 12-RC-8430

UNITED FOOD AND COMMERCIAL WORKERS
LOCAL 1625, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.²

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,³ the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and hereby are affirmed.

¹ The names of the parties appear as amended at the hearing.

² The petition in 12-RC-8430 was filed on November 10, 1999, and a hearing was held therein on November 22, 1999. At the hearing held on November 22, 1999, each party stated that it did not wish to call additional witnesses or offer additional evidence, and the hearing was closed.

³ The brief filed by the Employer has been carefully considered.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.⁴

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees employed by the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The parties stipulated that an appropriate unit for the purposes of collective bargaining would include all full-time and regular part-time housekeepers, housekeeping guest request attendants, housekeeping runners, housekeeping office clerks, housekeeping trainers, house persons, villas inspectors, model attendants, lobby/model attendants, public area attendants, carpet cleaners, carpet technicians/housekeeping, floor technicians/housekeeping, pressure washers/housekeeping, cafeteria attendants, and laundry attendants; but excluding all guest service employees, office clerical employees, temporary and casual employees, confidential employees, guards and supervisors as defined in the Act.

The parties were unable to agree upon the inclusion of dispatchers in the unit. The Petitioner asserts that the dispatchers should be included in any unit found appropriate herein while the Employer asserts that the dispatchers do not enjoy sufficient indicia of community of interest to cause the dispatchers to be included in the unit.⁵

⁴ The parties stipulated that WESTGATE VACATION VILLAS OWNERS ASSOCIATION, INC., herein called the Employer, a Florida corporation with an office and place of business located in Kissimmee, Florida, is engaged in the operation of a timeshare resort. During the past 12 months, a representative period, the Employer in the course and conduct of its business operations derived gross revenues in excess of \$500,000 and purchased and received at its Kissimmee, Florida facilities, goods and materials valued in excess of \$50,000 directly from points located outside the State of Florida.

⁵ The evidence adduced at hearing was limited to the issue of inclusion of dispatchers in the unit.

There are approximately 110 employees in the unit urged by the Employer to be found appropriate and approximately 123 employees in the unit sought by Petitioner.

I hereby take administrative notice of my previous decision in Westgate Vacation Villas, Case 12-RC-7881, in which a detailed description of the business operations of the Employer is found. It is not necessary to repeat the description herein.⁶

The unit found appropriate, and certified on November 3, 1995, in the prior case is as follows:

All engineering department employees, including pool operators, specialists, grounds employees, general maintenance technicians, appliance technicians, mechanics and train operators employed by the Employer at its Kissimmee, FL facility; excluding all other employees, guards and supervisors as defined in the Act.

Facts:

The dispatchers work three daily shifts. All are housed in an office on the first floor of the operations building. The space includes a window to the outdoors where employees can come to pick up work orders. The office is adjacent to the engineering department breakroom and the offices of the engineering manager and engineering director. The housekeeping manager has an office approximately two doors down the hall from the dispatch office. The housekeeping clerks are located on the second floor of the operations building. All other operational functions of the Employer also have offices in the operations building.

Until approximately two years ago, there were dispatchers employed in the engineering department, housekeeping department and in the security department. At that time, all of the dispatchers then employed by the Employer were moved to the present location and were transferred into the engineering department. Since that time, all of the dispatchers report to the dispatch manager who reports to the director of engineering. There

⁶ No party has offered any evidence in this record to indicate the prior description is inaccurate.

is no reporting responsibility from dispatchers to housekeeping or security and no supervisory responsibility is exercised by housekeeping or security over the dispatchers. All training of dispatchers is provided in the engineering department.

When a guest or resident has a problem, the guest picks up the telephone in their unit and punches the button for housekeeping/engineering. The call is directed to one of the dispatchers on duty at the time of the call. If the call is for engineering or maintenance, the dispatcher takes down the information from the caller, enters the information on a log sheet, and then creates a work order. Depending on the problem and the department involved, the dispatcher may call an employee on a radio or just issue the work order that will be picked up in due time and routed to the appropriate department for completion. The dispatcher may contact engineering, security, quality assurance, or housekeeping. With respect to housekeeping calls, the dispatcher creates an order for a housekeeping runner to pick up and complete for items like needing more towels, or for more involved problems, calls the housekeeping department clerks who are on the second floor of the operations building, and they determine what needs to be done and by whom. The dispatchers perform no work for any other department aside from taking phone calls and routing paperwork.

The dispatchers are paid hourly, as are other employees, and receive the same benefits as other employees. There is no evidence in the record herein of transfers between housekeeping positions and dispatch positions. There is no evidence of functional interchange between housekeeping and dispatch. Face to face interaction between dispatch and housekeeping employees is limited to when a housekeeping runner comes to the dispatch window to pick up a runner slip to provide a minor service for a guest or resident.

Analysis:

In making a determination as to the appropriateness of a petitioned-for unit, the bargaining unit approved by the Board need not be the only appropriate unit, or the most appropriate unit, as long as it is an appropriate unit.⁷

The Board examines such factors as the degree of functional integration, the amount of interaction between the employees, the skills and duties of the employees, the extent of employee interchange, and similarities in wages, benefits and working conditions, to determine whether the petitioned-for unit employees share a community of interest sufficiently separate from those outside the unit.⁸

With regard to employee interchange, the Board views permanent transfers as a less significant indication of actual interchange as compared to temporary transfers and accords them less weight in its analysis.⁹

Inasmuch as the dispatchers have separate supervision from other employees, have distinct duties performed by no other employees, have no more direct interaction with housekeeping employees than with employees in other departments, are in a location separate from housekeeping employees, do not transfer into or out of the housekeeping department, and have no functional job interchange with housekeeping, I find that the dispatch employees do not share a sufficient community of interest with the employees in the heretofore stipulated unit so as to include them in the unit.¹⁰

Accordingly, in view of the foregoing, and the record as a whole, I find that the following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

⁷ Executive Resources Associates, 301 NLRB 400, 401 (1991).

⁸ Vincent M. Ippolito and Bergen Enterprises Co., 313 NLRB 715, 717 (1994), and Brand Precision Services, 313 NLRB 657-658 (1994).

⁹ J & L Plate, 310 NLRB at 430, citing Red Lobster, 300 NLRB 911.

¹⁰ Omni International Hotel, 283 NLRB 475 (1987).

All full-time and regular part-time housekeepers, housekeeping guest request attendants, housekeeping runners, housekeeping office clerks, housekeeping trainers, house persons, villas inspectors, model attendants, lobby/model attendants, public area attendants, carpet cleaners, carpet technicians/housekeeping, floor technicians/housekeeping, pressure washers/housekeeping, cafeteria attendants, and laundry attendants; but excluding all guest service employees, office clerical employees, dispatcher employees, temporary and casual employees, confidential employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.¹¹ Those

¹¹ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that two (2) copies of an election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such lists must be received by the Regional Office, SouthTrust Plaza, Suite 530, 201 E. Kennedy Boulevard, Tampa, Florida 33602-5824 on or before December 23, 1999. No extension of time to file these lists shall be granted except in extraordinary

eligible shall vote whether or not they desire to be represented for collective bargaining purposes by United Food and Commercial Workers Local 1625, AFL-CIO.¹²

DATED at Tampa, Florida, this 16th day of December, 1999.

Rochelle Kentov, Regional Director
National Labor Relations Board, Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, FL 33602

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circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

¹² Under the provisions of Section 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by December 30, 1999.